IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 416 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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STATE OF GUJARAT

Versus

SURESHBHAI PUNJABHAI PATEL

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Appearance:

MR MUKESH PATEL Ld. APP for Petitioner

MR AJ PATEL Ld. Advocate appointed to render legal assistance to Respondent No. 1

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 11/08/2000

ORAL JUDGEMENT

This acquittal appeal arises from the impugned judgment and order dated 14.2.1998 rendered by the learned Chief Judicial Magistrate, Bharuch in Criminal Case No. 542/1987. The respondent who will be referred as

the accused, came to be acquitted of the offence under sec. 7 read with section 16 of Prevention of Food Adulteration Act.

It would appear from the prosecution case that the complainant being the Food Inspector, Bharuch Nagarpalika , Bharuch had an occasion to intercept the accused proceeding on his Rajdoot Motor-cycle with three Cans containing around 20 liters of cow milk. He had purchased 750 ml. of cow milk for the purpose of analysis. After following the formalities, he sent one of the samples for examination to the Food and Drugs Laboratory, Vadodara. Upon examination of the sample, it transpired that the milk fat was 3.9% against minimum required 3.5%, whereas the milk solids not fat were 6.69% against the minimum required 8.5%. Since the second standard was not conforming with the minimum required standard, the accused came to be prosecuted before the learned Chief Judicial Magistrate.

Upon appreciation of the evidence, the learned Chief Judicial Magistrate came to the conclusion that the prosecution failed to establish the charge against the accused beyond reasonable doubt in asmuch as the prosecution failed to establish addition of appropriate formalin before its expiry date and taking of sample by appropriately stirring the milk. Learned Chief Judicial Magistrate has relied upon number of decisions for giving benefit of doubt to the accused. I have gone through the impugned judgment in the context of the evidence which has been placed on record before the learned Chief Judicial Magistrate. The acquittal rendered by the learned Chief Judicial Magistrate cannot be faulted inasmuch as the learned Chief Judicial Magistrate has appreciated the evidence in accordance with law. There is a detailed cross-examination with regard to alleged formalin added for preservation of the sample as also stirring of the milk before taking of the sample. Hence, bearing in mind the facts and circumstances of the case,this appeal is not required to be entertained,the same is accordingly dismissed.

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